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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/656,812	09/08/2003	Wolfgang Danzer	038724.52699US	7094
23911	7590	12/26/2008	EXAMINER	
CROWELL & MORING LLP INTELLECTUAL PROPERTY GROUP P.O. BOX 14300 WASHINGTON, DC 20044-4300			ELVE, MARIA ALEXANDRA	
		ART UNIT	PAPER NUMBER	
		3742		
		MAIL DATE	DELIVERY MODE	
		12/26/2008	PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/656,812	DANZER, WOLFGANG	
	<b>Examiner</b>	<b>Art Unit</b>	
	M. Alexandra Elve	3742	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 15 September 2008.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1,3,4,9,12 and 13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1,3,4,9,12 and 13 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 02 February 2004 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ .                                    |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ .  | 6) <input type="checkbox"/> Other: _____ .                        |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

Claims 1, 3-4, 9 & 13-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant has narrow and broad language that is, consisting and comprises.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 & 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herrmann (EP 1022087A2 abstract) in view of Chang (USPN 6,040,550).

Herrmann discloses:

A process gas and a method of laser welding are disclosed. A laser welding process gas containing a specified amount of carbon dioxide, up to 40 volume % carbon dioxide. Additionally, the process gas may contain helium and argon. The focused laser beam and process gas are directed onto the workpiece. The process gas comprises by volume 5-50% He, 0-40 or especially 5-30 volume% carbon dioxide and balance argon.

Hermann discloses a laser but does not specifically teach a diode laser.

Chang discloses using a diode laser to laser weld copper alloys or steel. A shield gas, such as argon is used.

It would have been obvious to one of ordinary skill in the art at the time of the invention to use a diode laser as taught by Chang in the Herrmann process because it is a specific type of laser and is known for laser welding.

Herrmann does not disclose the exact amount as instant claims; however, the prior art compositions closely approximate or overlap applicant's claimed composition. It has been held that one of ordinary skill in the art at the time of the invention would have considered the claimed compositions to have been obvious because close approximation or overlapping ranges in a composition is considered a *prima facie* case of obviousness. See *In re Malagari*, 182 USPQ 549, *Titanium Metals v. Banner* 227 USPQ 773, *In re Nehrenberg* 126 USPQ 383.

Claims 3 & 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herrmann and Chang, as stated above and further in view of Goto (JP 410296472).

Herrmann does not teach carbon dioxide volumes of 45 to 85% and 55 to 80%.

Goto discloses laser welding of an aluminum tank having a gaseous shield of carbon dioxide and oxygen. The carbon dioxide ranges from 10% to 62%.

It would have been obvious to use the carbon dioxide amounts as taught by Goto in the Herrmann process because it is merely a variation of the gaseous shielding environment.

It would have been obvious to one of ordinary skill in the art at the time of the invention to use the carbon dioxide levels as taught by Goto in the Herrmann system because both are directed to welding using a shielding environment.

Claims 12-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herrmann, Chang and Goto, as stated above, and further in view of Mori et al. (USPN 6,399,915).

Herrmann, Chang and Goto do not teach the wavelength of the laser.

Mori et al. discloses a laser welding unit, which has a wavelength of 500 to 1064 nm. Semiconductor diode lasers may be used.

It would have been obvious to one of ordinary skill in the art at the time of the invention to use a laser wavelength, as taught by Mori et al. system because this is merely a standard laser parameter.

### ***Response to Arguments***

Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See US PTO-892.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Alexandra Elve whose telephone number is 571-272-1173. The examiner can normally be reached on 7:30-4:00 Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tu B. Hoang can be reached on 571-272-4780. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

December 21, 2008.

/M. Alexandra Elve/  
Primary Examiner, Art Unit 3742